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MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Yoshida et al.	:	DECISION ON APPLICATION
Application No. 10/553,798	:	FOR PATENT TERM ADJUSTMENT
Filed: October 18, 2005	:	
Attorney Docket No. 07580.0008	:	

This is a decision responding to the "Application for Patent Term Adjustment-Pre-Grant" filed August 27, 2010. Applicants request the initial determination of patent term adjustment be corrected from four hundred seventy-seven (477) days to five hundred ninety-seven (597) days.

The application for patent term adjustment is **granted**.

The Office has updated the Office's PALM screen to reflect the correct patent term adjustment determination at the time of the mailing of the Notice of Allowance is 597 days. A copy of the updated PALM screen showing the correct determination is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on July 7, 2010, advising Applicants of a patent term adjustment to date of 477 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on August 27, 2010.

Applicants argue the correct patent term adjustment is 597 days, not 477 days, based on an assertion the Office should have entered a 562-day, not a 442-day, increase in patent term adjustment for Office delay in responding to a reply to a final Office action filed September 13, 2007.

Pursuant to 37 C.F.R. § 1.703(a)(3), the patent term adjustment includes:

The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

A reply to a final Office action was filed September 13, 2007. Office PALM records indicate the Office issued an Office action in response to the reply on March 30, 2009, four months and 442 days after the date the reply was filed. As a result, the Office entered a 442-day increase in patent term adjustment 37 C.F.R. § 1.703(a)(3).

Applicants contend the Office should have entered a 562-day, not a 442-day increase, in patent term adjustment under 37 C.F.R. § 1.703(a)(3) because an Office action was not actually mailed in response to the September 13, 2007 reply, until July 28, 2009, four months and 562 days after Applicants filed the reply.

A review of the record indicates the Office did not issue an Office action responding to the September 13, 2007 reply until July 28, 2009. Therefore, the Office should have entered a 562-day, not a 442-day, increase in patent term adjustment under 37 C.F.R. § 1.703(a)(3).

In view of the prior discussion, Office records have been changed to indicate the correct patent term adjustment as of the date the Office issued the Notice of Allowance is 597 days, which is the sum of 35 days of delay under 37 C.F.R. § 1.703(a)(1) and 562 days of delay under 37 C.F.R. § 1.703(a)(3).

Submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any Office delays pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that will be mailed to Applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

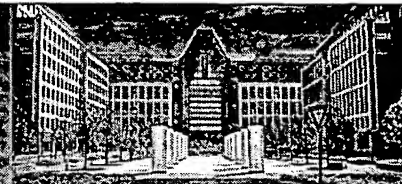


Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 10553798

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

PTA Calculations for Application: 10553798

Application Filing Date	10/18/2005	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	477
A Delays	477	PTO Manual Adjustment	120
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	597

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
67	12/15/2010		P028	Adjustment of PTA Calculation by PTO	120	0	
58	06/04/2010		IREV	Issue Revision Completed		0	
57	06/04/2010		DVER	Document Verification		0	
56	06/04/2010		N/=	Notice of Allowance Data Verification Completed		0	
55	06/04/2010		DOCK	Case Docketed to Examiner in GAU		0	
54	06/04/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	
53	06/04/2010		EX.A	Examiner's Amendment Communication		0	
52	06/04/2010		CNTA	Notice of Allowability		0	
51	06/02/2010		FWDX	Date Forwarded to Examiner		0	
50	06/02/2010		MAPCA	Mail Appeals conf. Rej. withdrawn		0	
49	05/11/2010		APCA	Pre-Appeals Conference Decision - Rejection Withdrawn		0	
46	04/08/2010		AP.C	Request for Pre-Appeal Conference Filed		0	
45	04/08/2010		N/AP	Notice of Appeal Filed		0	
44	01/15/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
43	01/14/2010		CTFR	Final Rejection		0	
42	11/15/2009		FWDX	Date Forwarded to Examiner		0	
41	10/28/2009		A...	Response after Non-Final Action		0	
40	07/28/2009		MNRES	Mail Notice of Restarted Response Period		0	
39	07/23/2009		NRES	Letter Restarting Period for Response (i.e. Letter re: References)		0	
38	03/30/2009	01/13/2008	MCTNF	Mail Non-Final Rejection	442	26	
35	12/12/2007		MAPCR	Mail Appeals conf. Reopen Prosec.		0	
37	12/11/2007		CTNF	Non-Final Rejection		0	
36	12/11/2007		FWDX	Date Forwarded to Examiner		0	
34	12/11/2007		APCR	Pre-Appeals Conference Decision - Reopen Prosecution		0	
32	10/15/2007		AP.C	Request for Pre-Appeal Conference Filed		0	
31	10/15/2007		N/AP	Notice of Appeal Filed		0	
30	10/15/2007		XT/G	Request for Extension of Time - Granted		0	
29	10/05/2007		MCTAV	Mail Advisory Action (PTOL - 303)		0	
28	10/01/2007		CTAV	Advisory Action (PTOL-303)		0	
27	09/19/2007		FWDX	Date Forwarded to Examiner		0	
26	09/13/2007		A.NE	Amendment after Final Rejection		0	
24	06/15/2007		MCTFR	Mail Final Rejection (PTOL - 326)		0	
23	06/11/2007		CTFR	Final Rejection		0	
22	04/24/2007		FWDX	Date Forwarded to Examiner		0	
21	04/04/2007		A...	Response after Non-Final Action		0	
20	01/22/2007	12/18/2006	MCTNF	Mail Non-Final Rejection	35	7	
19	01/16/2007		CTNF	Non-Final Rejection		0	
16	08/13/2006		DOCK	Case Docketed to Examiner in GAU		0	
15	07/26/2006		DOCK	Case Docketed to Examiner in GAU		0	
14	06/29/2006		DOCK	Case Docketed to Examiner in GAU		0	
13	03/29/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
8	03/29/2006		DOCK	Case Docketed to Examiner in GAU		0	
6	03/14/2006		OIPE	Application Dispatched from OIPE		0	
5	03/14/2006		M903	Notice of DO/EO Acceptance Mailed		0	
4	03/07/2006		L194	Cleared by OIPE CSR		0	
3	02/26/2006		L194	Cleared by OIPE CSR		0	
17	01/30/2006		IDSC	Information Disclosure Statement considered		0	
11	01/30/2006		RCAP	Reference capture on IDS		0	
10.7	01/30/2006		M844	Information Disclosure Statement (IDS) Filed		0	
10	01/30/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
2	11/15/2005		CLSPCT	PCT Classification		0	
18	10/18/2005		IDSC	Information Disclosure Statement considered		0	
12	10/18/2005		RCAP	Reference capture on IDS		0	
9.7	10/18/2005		M844	Information Disclosure Statement (IDS) Filed		0	

9	10/18/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
7	10/18/2005	371COMP	371 Completion Date	0
1	10/18/2005	IEXX	Initial Exam Team nn	0

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